

REMARKS

The present amendment is a supplemental response to the Office Action dated April 6, 2006. A previous amendment was filed by the applicants on August 7, 2006. Claims 1-12, 14-34, and 36-44 are now present in this case. Claim 23 is amended.

In a series of telephone calls between the Examiner and the applicants' attorney on August 14-15, 2006, the Examiner indicated that claims 1-12 and 14-22 were allowable, but raised concerns regarding language in claim 23. Specifically, the use of the term "A signal bearing medium" was not clearly statutory subject matter under 35 U.S.C. § 101. The applicants have amended claim 23 to refer to "A computer-readable medium," which is clearly patentable subject matter. Support for this amendment may be found in the original specification at page 5, line 26-page 6, line 12.

In addition, the Examiner indicated that claim 23 may be unpatentable in light of 35 U.S.C. § 112, first paragraph. Specifically, there was a question as to the operational connectivity of the processing apparatus cited in claim 23 within the telecommunications network. Claim 23 has been amended to clarify that the processing apparatus is "operationally coupled to a communication network to perform a method of assigning remote units in the communication network." The original specification, at pages 5-7, discuss implementation of a system containing a computer-readable medium. Specifically, the specification clearly recites that the computer-readable medium may be part of or connected to a server computer coupled to a computer network. However, the computer or computers executing the instructions contained on the computer-readable medium need not be at a specific physical location, such as the Mobile Switching Center (MSC) as asserted by the Examiner. Those skilled in the art will appreciate that computer network technology permits distributed computing, such as discussed in the specification at page 6, line 13 to page 7, line 2. The computer or computers executing the instructions recited in claim 23 are functionally connected to the communications network in order to access the data from a fixed wireless looped network and to reassign identified remote units to a substitute station "to thereby reduce the number of remote units assigned to receive communication service from the potentially overloaded station," as recited in claim 23.

The relevant portion of the U.S. Patent Laws requires that the specification "contain a written description of the invention, in the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which is pertains, or to which it is most clearly connected, to make and use the same." (35 U.S.C. § 112, first paragraph.) The courts have further determined that enablement "is not precluded even if some experimentation is necessary." *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 231 USPQ 81 (Fed. Cir. 1986). The specification as originally filed contains a written description of the functionality of the computer-readable medium and its operative connections to the communications network. Accordingly, claim 23 as currently amended clearly meets the statutory requirements of 35 U.S.C. § 101 and 35 U.S.C. § 112. The applicants respectfully request reconsideration and allowance of the application.

In view of the above amendments and remarks, reconsideration of the subject application and its allowance are kindly requested. The applicants have made a good faith effort to place all claims in condition for allowance. If questions remain regarding the present application, the Examiner is invited to contact the undersigned at (206) 628-7640.

Respectfully submitted,
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